

AMENDED IN SENATE MAY 23, 2003

**SENATE BILL**

**No. 1007**

**Introduced by Senators Speier and Margett**

February 21, 2003

---

---

An act to amend Section 11656.6 of the Insurance Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1007, as amended, Speier. Insurance: workers' compensation policies.

Existing law authorizes an insurer to issue a workers' compensation policy insuring an organization or association of employers subject to specified conditions, including requirements that the organization or association file certain documents with the commissioner or a licensed workers' compensation rating organization relating to (1) the percentage of its membership engaged in a common trade or business, and (2) the naming in certain statements of members eligible for insurance. Existing law defines the term "common trade or business" for purposes of these provisions.

This bill would expand the definition of "common trade or business" to include specified types of manufacturing facilities.

*The bill would declare that it would not become operative unless SB 229 of the 2003–04 Regular Session is enacted and becomes operative.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11656.6 of the Insurance Code is amended to read:

11656.6. An insurer may issue a workers' compensation policy insuring an organization or association of employers as a group if the organization or association complies with the following conditions:

(a) Files with the commissioner or a licensed workers' compensation rating organization designated by him or her the following:

(1) A copy of its articles of incorporation and bylaws or its agreement of association and rules and regulations governing the conduct of its business, all certified by the custodian of the originals thereof.

(2) A statement setting forth its reasons for desiring insurance as a group.

(3) A statement certifying that at least 75 percent of its regular membership is engaged in a common trade or business, and an agreement that the percentage of membership will be maintained during the time that a group workers' compensation policy issued to the organization or association is in force.

(4) An agreement that only those members who are engaged in a common trade or business shall be named by the organization or association in any statement to the commissioner, a licensed workers' compensation rating organization, or insurer as eligible for insurance as a member of the group, and an agreement that it will immediately notify its insurer if any member of the organization fails to remain a member in good standing in accordance with the basic law, rules, and regulations of the organization or association.

(5) A statement in writing undertaking to establish and maintain a safety committee which, by education and otherwise, will seek to reduce the incidence and severity of accidents.

(6) An agreement in writing duly executed stating that, if the insurer notifies the organization or association of the nonpayment of a premium by an insured member of the organization or association within 60 days after the premium was due, the organization or association may be liable to pay to the insurer the amount of any past due premium that does not exceed the amount

1 of the dividends that are due to the organization or association or  
2 its members from the insurer.

3 However, this agreement shall not be required, nor shall an  
4 organization or association be liable for payment, unless the  
5 governing board of the organization or association and the insurer  
6 agree in writing to use dividends due for the payment of past due  
7 premiums. The organization or association shall promptly notify  
8 the insurer of the known insolvency of any member of the group  
9 plan, and shall request, upon learning of the insolvency, removal  
10 of the member from the group plan. A copy of the resolution of the  
11 governing board of the organization or association authorizing the  
12 execution of the agreement shall be filed with the commissioner  
13 or a licensed workers' compensation rating organization  
14 designated by the commissioner and with any insurer issuing a  
15 group policy.

16 (b) "Common trade or business," as used in this article, shall  
17 mean:

18 (1) In agricultural enterprises, operations in which the principal  
19 payroll of the employer develops under any combination of the  
20 classifications of the Manual of Rules, Classifications and Basic  
21 Rates of Workers' Compensation Insurance approved by the  
22 Insurance Commissioner as applicable to farms, nurserymen,  
23 cultivating or gardening of flowers, and classifications embracing  
24 other operations that may be conducted by a nonprofit cooperative  
25 association composed of producer members and combinations of  
26 nonprofit cooperative agricultural marketing associations having  
27 a central organization composed of member associations.

28 (2) In the building and construction industry, operations in the  
29 construction or repair of commercial or residential buildings or in  
30 general engineering construction in which the principal payroll  
31 develops under any combination of the classifications applicable  
32 to the construction or repair as they appear in the Manual of Rules,  
33 Classifications and Basic Rates for Workers' Compensation  
34 Insurance approved by the Insurance Commissioner. Commercial  
35 buildings, as defined in this paragraph, shall mean any  
36 nonresidential buildings.

37 (3) In the transportation and warehousing industry, operations  
38 in which the principal payroll of the employer develops under any  
39 combination of the classifications of the Manual of Rules,  
40 Classifications and Basic Rates of Workers' Compensation

1 Insurance approved by the Insurance Commissioner as applicable  
2 to for-hire motor carriers subject to regulation by the Public  
3 Utilities Commission and warehousemen.

4 (4) In the timber and lumber industry, operations in which the  
5 principal payroll of the employer develops under any combination  
6 of the classifications of the Manual of Rules, ~~Classification~~  
7 *Classifications* and Basic Rates of Workers' Compensation  
8 Insurance approved by the Insurance Commissioner as applicable  
9 to land clearing, logging or lumbering, log, chip, and lumber  
10 hauling, planing or molding mills, sawmills or shingle mills,  
11 veneer or veneer products manufacturing, box or box shook  
12 manufacturing, cabinet works, door, door frame, or sash  
13 manufacturing and wood fiber preparation. However, no  
14 classification applicable to for-hire motor carriers under the  
15 provisions of paragraph (3) of this subdivision shall be included  
16 in any combination of classifications authorized by this paragraph.

17 (5) For public agencies providing industrial, domestic, or  
18 agricultural water service, operations in which the principal  
19 payroll of the employer develops under any combination of the  
20 classifications of the Manual of Rules, ~~Classification~~  
21 *Classifications* and Basic Rates of Workers' Compensation  
22 Insurance approved by the Insurance Commissioner as applicable  
23 to irrigation, drainage, reclamation, or waterworks operations.

24 (6) For sheltered workshops and rehabilitation facilities  
25 licensed pursuant to Section 1191.5 of the Labor Code, operations  
26 in which the principal payroll of the employer develops under any  
27 combination of classifications of the Manual of Rules,  
28 ~~Classification~~ *Classifications* and Basic Rates of Workers'  
29 Compensation Insurance approved by the Insurance  
30 Commissioner.

31 (7) For all other enterprises, operations in which the principal  
32 payroll develops under a single manual classification or a  
33 combination of classifications under which a group policy may be  
34 issued pursuant to subdivision (d).

35 (8) For manufacturing facilities as identified in Sector 31 to 33,  
36 inclusive, of the North American Industry Classification System  
37 (NAICS), operations in which the principal payroll of the  
38 employer develops under any combination of classifications of the  
39 ~~Manual of Rules, Classification and Basic Rates of Worker's of~~  
40 *Rules, Classifications, and Basic Rates of Workers' Compensation*

1 Insurance approved by the Insurance Commissioner applicable to  
2 establishments engaged in the mechanical, physical, or chemical  
3 transformation of materials, substances, or components into new  
4 products.

5 (c) Except as provided in subdivision (d), “principal payroll,”  
6 for the purpose of this section, means not less than 51 percent of  
7 the total payroll for the preceding policy year or, in the case of an  
8 employer who has no preceding full year’s payroll, not less than  
9 51 percent of his or her estimated annual payroll. Principal or  
10 estimated annual payroll shall not include the payroll of those  
11 employees set forth in the standard exceptions contained in the  
12 ~~California Workers’ Compensation Insurance Manual of Rules,~~  
13 ~~Classifications, and Basic Rates.~~ *Manual of Rules,*  
14 *Classifications, and Basic Rates of Workers’ Compensation*  
15 *Insurance approved by the Insurance Commissioner.*

16 (d) An insurer may issue a workers’ compensation policy  
17 insuring an organization or association of employers as a group if,  
18 in addition to complying with the conditions set forth in  
19 subdivision (a), the organization or association has had at least 50  
20 percent of its present membership for at least one year prior to the  
21 issuance of the policy, and not less than 75 percent of the payroll  
22 of each employer to be insured under the group policy developed  
23 under the same two manual classifications, or either of them, for  
24 the preceding policy year or, in the case of an employer who has  
25 had no preceding full-year’s payroll, not less than 75 percent of his  
26 estimated annual payroll develops under the classification or  
27 classifications. However, no classification applicable to for-hire  
28 motor carriers under the provisions of paragraph (3) of subdivision  
29 (b) shall be included in any combination of classifications  
30 authorized by this subdivision.

31 *SEC. 2. This act shall not become operative unless Senate Bill*  
32 *229 of the 2003–04 Regular Session is enacted and becomes*  
33 *operative.*